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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,651	01/07/2004	Richard C. Fuksa	4447-103017-US	4106
7590	02/17/2009		EXAMINER	
James B. Conte Husch Blackwell Sanders LLP Welsh & Katz Floor 22 120 South Riverside Plaza Chicago, IL 60606-3912				SCHNEIDER, CRAIG M
ART UNIT		PAPER NUMBER		
		3753		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICHARD C. FUKSA and JIM ZHU

Application 10/752,651
Technology Center 3700

Mailed: February 17, 2009

Before KRISTA M. ZELE, *Deputy Chief Appeals Administrator.*

ZELE, *Deputy Chief Appeals Administrator.*

ORDER RETURNING UNDOCKETED APPEAL

This application was electronically received by the Board of Patent Appeals and Interferences on December 2, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER, EVIDENCE RELIED UPON

Section §1207.02 of the *Manual of Patent Examining Procedure* (MPEP) (Eighth Edition, Rev. 6, September 2007) states:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

....

(8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and in the case of nonpatent references, the relevant page or pages.

The Examiner's Answer mailed February 22, 2008, is deficient because the "Evidence Relied Upon" section fails to include the reference(s) Malloy et al. (U.S. 4, 146,206), Runge (U.S. 4, 182, 217), Kindt (U.S. 2,221,141), Hinkel (U.S. 6,435,758) cited on page(s) 5, and 6, in the Examiner's Answer's grounds of rejection of claims 4, 5, 6, 7 under 37 USC 41.39

Appropriate correction is required.

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1.) to issue a PTO-90 citing the missing references listed under the Evidence Relied Upon section, paragraph (8); and
- 2.) such further action as may be required.

Application No. 10/752,651

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/MTV/rvb

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